

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF ILLINOIS**

IN RE:)	
)	
GREGORY D. STANLEY,)	No. 98-82598
Debtor.)	
)	
)	
TRAVIS D. STANLEY and)	
GERI L. STANLEY,)	
Plaintiffs,)	
)	
vs.)	Adv. No. 98-8226
)	
GREGORY D. STANLEY,)	
Defendant.)	

OPINION

Before the Court is the motion for summary judgment filed by the Debtor, GREGORY D. STANLEY (DEBTOR), against the Plaintiffs, TRAVIS D. STANLEY and GERI L. STANLEY (PLAINTIFFS).

In 1994, the DEBTOR, while driving his employer's vehicle, was involved in an accident with his brother, TRAVIS D. STANLEY, one of the PLAINTIFFS. The PLAINTIFFS brought a five-count complaint in state court against the DEBTOR and the DEBTOR's employer, alleging that the DEBTOR intentionally rammed into the vehicle driven by his brother. The case was tried to a jury and the jury found in favor of the PLAINTIFFS on the count alleging that the DEBTOR's actions were willful and malicious, but awarded no damages, and found in favor of the PLAINTIFFS on the negligence count, awarding damages in the amount of \$36,362.17.

The DEBTOR filed a Chapter 7 petition in Bankruptcy and the PLAINTIFFS brought this adversary proceeding, seeking to have the judgment debt declared nondischargeable as a willful

and malicious injury under § 523(a)(6) of the Bankruptcy Code, 11 U.S.C. § 523(a)(6). The DEBTOR filed a motion for summary judgment, arguing that the jury's failure to award damages under the count based upon willful and malicious injury collaterally estops the PLAINTIFFS from relitigating the issue in this Court and that the award of damages based on the DEBTOR's negligence is dischargeable. The PLAINTIFFS contend that it is the jury's determination of liability that is binding on the DEBTOR and that the judgment is nondischargeable.

Both parties agree that at issue is the application of the doctrine of collateral estoppel and that the circumstances presented by this case are factually unusual. Neither the DEBTOR nor the PLAINTIFFS have submitted any authority which assists this Court in ruling upon the DEBTOR's motion. Based upon the Court's own research, the DEBTOR's motion must be denied. The doctrine of collateral estoppel does not apply to an issue on which a jury has reached inconsistent verdicts. *United States v. Powell*, 469 U.S. 57, 68-69, 105 S.Ct. 471, 83 L.Ed.2d 461 (1984). This rule has been applied in civil cases. *See Hardy v. Johns-Manville Sales Corp.*, 681 F.2d 334 (5th Cir.1982). The rule only applies, however, when the verdicts are truly irreconcilable.

That is not the case here. Under Illinois tort law, the issue of the DEBTOR's liability is separate from the issue of the extent of the PLAINTIFFS' injury. For the purposes of the application of the doctrine of collateral estoppel, the determinative issue is the willfulness and the maliciousness of the DEBTOR's actions. The jury found liability on the willful and malicious count, as well as on the count based on negligence. That state court determination of willful and malicious conduct is binding here. This Court does not know why the jury only awarded damages on the charge of negligence. The jury may have believed that the PLAINTIFFS

would receive a double recovery if it awarded damages under both the willful and malicious and the negligence counts. *See Holt Oil & Gas Corp. v. Harvey*, 801 F.2d 773 (5th Cir. 1986). The important thing is that the jury found that the DEBTOR's actions were willful and malicious and also awarded the PLAINTIFFS damages in the amount of \$36,362.17. The DEBTOR is collaterally estopped from relitigating those issues and the debt is nondischargeable under § 523(a)(6).

This Opinion is to serve as Findings of Fact and Conclusions of Law pursuant to Rule 7052 of the Rules of Bankruptcy Procedure.

See written Order.

DATED: April 25, 2000.

WILLIAM V. ALTENBERGER
UNITED STATES BANKRUPTCY JUDGE

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ORDER

For the reasons stated in an OPINION filed this day, IT IS HEREBY ORDERED that the motion for summary judgment filed by the DEBTOR is DENIED and IT IS FURTHER ORDERED that Judgment is entered on the Complaint in FAVOR of the PLAINTIFFS and AGAINST the DEBTOR and the debt is determined to be NONDISCHARGEABLE.

Dated: April 25, 2000.

WILLIAM V. ALTENBERGER
UNITED STATES BANKRUPTCY JUDGE

Copies to:
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Mr. John S. Callas
U.S. Trustee